

SECTION – I**GENERAL TERMS AND CONDITIONS OF TENDER****1.01.00 DEFINITION OF TERMS:**

- 1.01.01** In construing these general conditions and the annexed specification, the following words shall have the meaning herein assigned to them unless there is something in the subject or context inconsistent with such construction.
- 1.01.02** The **Contract'** means the Agreement entered into between Owner/ Employer and Agency/Bidder/firm/contractor as per the Contract Agreement signed by the Parties including all attachments, annexures and appendices there to and all Documents incorporated by reference therein.
- 1.01.03** **'Owner or Employer** shall mean the Bangalore Electricity Supply Company Limited (BESCOM) and shall include their Legal Representatives, Successors and Assigns.
- 1.01.04** **'Control Centre'** shall mean and include the BESCOM Integrated Control Centres located at HSR Layout and Rajajinagar, Bangalore.
- 1.01.05** **Approved** shall mean the written approval of the BESCOM or its authorized representative.
- 1.01.06** **Bid** shall mean the proposal/document, the Bidder submit in the requested and specified form in the specification
- 1.01.07** **Bidder** shall mean the firm/party who quotes against an enquiry, "Contractor" shall mean the successful bidder whose bid has been accepted by the BESCOM and shall include his heirs, legal representatives, successors and permitted assigns.
- 1.01.08** **Codes and standards** shall mean all the applicable codes and standards as indicated in the specification.
- 1.01.09** **Contract or Contract document** shall mean contract agreement duly signed by both the BESCOM and the contractor.
- 1.01.10** **Contract period** shall mean the period during which the contract shall be executed and expected to be completed as agreed between the BESCOM and contractor in the contract including guarantee period.
- 1.01.11** **Contract price** shall mean the price referred to in the Letter of award and agreed to in the contract.
- 1.01.12** **Company** shall mean Bengaluru Electricity supply Company Limited(BESCOM) on whose behalf the enquiry is issued by its representative and shall include its successors, assigns as well as its authorized officer/representative.
- 1.01.13** **Correspondence** shall mean any letter, fax, telegram, E-mail or other written communication related to the contract but excluding notices.

- 1.01.14 Engineer** shall mean the authorized representatives appointed by the BESCOM for the purpose of inspection of material/equipment/works.
- 1.01.15 Instruction** shall mean the direction, details and explanation issued by the BESCOM from time to time during the contract period.
- 1.01.16 Letter of Award or Work Order** shall mean the official notice issued by the BESCOM notifying the contractor that his proposal has been accepted and that the contractor is required to sign the contract agreement. The date of letter of award shall be taken as the effective date of commencement of all works under the contract.
- 1.01.17 Month** shall mean the calendar month and Day shall mean the calendar day.
- 1.01.18 Notice in writing** shall mean a notice in written, typed or printed characters sent (unless delivered personally or otherwise proved to have been received) by registered post to the last known private business address, or the registered office of the addressee and shall be deemed to have been received when the ordinary course of post it would have been delivered.
- 1.01.19 Others** shall mean other successful Contractors whose bids have been accepted by the BESCOM and to whom the orders have been placed by the BESCOM for the supply/replacement/maintenance of other HVAC units/works and shall include their heirs, legal representatives, successors and permitted assigns.
- 1.01.20 VRF HVAC units or equipment or works** shall mean the goods to be supplied and service to be provided by the contractor under the contract.
- 1.01.21 Prescribed** shall mean prescribed by the BESCOM or its authorized representatives.
- 1.01.22 Project** shall mean the project specified in the project information section of the specification.
- 1.01.23 Site or Control Centers** shall mean the actual place of the proposed project as detailed in the specification.
- 1.01.24 SERVICE PROVIDER:**
- SERVICE PROVIDER means the firm which would take up work of Comprehensive annual maintenance contract of total 170HP(14No's) ,HSR Layout and 148HP(12No's) Rajajinagar, Bengaluru, different models of Toshiba Make VRF HVAC's units installed at both Control centers BICC-1 and BICC-2, located at HSR Layout and Rajajinagar, Bengaluru, Karnataka.
- 1.01.25 Writing** shall include any manuscript typewritten, printed statement under or over signature and seal as the case may be.

1.02.00 SCOPE OF THE CONTRACT:

Brief scope of work covers, Comprehensive annual maintenance contract of total 170HP(14No's) ,HSR Layout and 148HP(12No's) Rajajinagar, different models of Toshiba make VRF HVAC's at both Control centers BICC-1 and BICC-2, located at HSR Layout and Rajajinagar, Bengaluru, Karnataka and detail scope will be as per Section – III enclosed.

1.03.00 CONTRACTORS TO INFORM HIMSELF FULLY:

The contractor shall be deemed to have carefully examined the general conditions and specifications. If he shall have any doubt as to the meaning of any portion of these general conditions or of the specification, he shall, before signing the contract, set forth the particulars thereof, and send them to the Engineer in writing in order that such doubt may be clarified/removed.

1.04.00 COMPLETENESS OF CONTRACT:

The contract shall be complete and shall include all accessories, which even though not specifically mentioned in these specifications, schedules, drawings etc., and are essential for the satisfactory operation of the VRF HVAC units as a whole.

1.05.00 PERFORMANCE GUARANTEE (SECURITY DEPOSIT):

- a) The successful Bidder/Contractor shall enter in to an agreement in the prescribed format on stamp paper of Rs. 200/-. The Successful Bidder shall furnish Performance Guarantee to the Owner/Employer within Fifteen (15) days from the date of receipt of LOI .
- b) The Successful Bidder/contractor to whom the Contract is awarded, shall be required to furnish the Contract Performance Guarantee in the form of a Bank Guarantee in favour of the Owner/ Employer as Contract Performance Guarantee for faithful Performance of the Contract in accordance with the Terms and Conditions specified in the Contract.
- c) The Guarantee amount shall be equal to ten percent (10%) of the Contract Price and the Guarantee shall be valid till expiry of 90 days after the end of the Contract period.
- d) The Contract Performance Guarantee amount shall be unconditional and irrevocable and the amount therein shall be payable to the Owner/Employer on demand without any condition whatsoever.
- e) The Performance Bank Guarantee shall be discharged/returned by Owner/ Employer upon being satisfied that there has been due performance of the obligations of the Bidder under the contract. However, no interest shall be payable on the Performance Bank Guarantee.
- f) In the event of the bidder being unable to service the contract for whatever reason, the Owner/Employer shall invoke the PBG. The Owner/Employer shall notify the Bidder in writing of the exercise of its right to receive such compensation within 14days, indicating the contractual obligation(s) for which the Bidder is in default.
- g) The Owner/Employer shall also be entitled to make recoveries from the Bidder bills , PBG or any other payment due, in case of any error/ omission on bidder's part.
- h) The PBG shall be furnished in the format prescribed by the employee (shall be provided on receipt of LOI by the successful bidder/contractor).

- i) Security deposit will be treated as to have been paid only after the bank guarantee furnished by the contractor is accepted by the Owner/Employee in writing.
- j) The Contractor shall extend the bank guarantee towards security deposit beyond the stipulated contract period if required by BESCOM.

1.06.00 CONTRACT AGREEMENT:

- 1.06.01 An agreement shall be entered into between the contractor and the BESCOM for proper fulfillment of the contract. The agreement shall be executed by the contractor on Rs.200/- stamp paper purchased in Karnataka, in the form prescribed by the BESCOM immediately after the order is received.
- 1.06.02 After the contract has been executed, all orders or instructions to the contractor shall, except as herein otherwise provided, be given by the BESCOM.
- 1.06.03 The expenses of completing and stamping the agreement shall be paid by the Contractor and the BESCOM shall be furnished free of charge with an executed stamped counter-part of the agreement together with **1(One)** additional copy of the contract agreement. Each copy of the agreement, which shall comprise of the agreement together with its annexures viz., Sections-I, II, III and Schedules, etc., shall be furnished duly bound.
- 1.06.04 The copies of contract agreement shall be duly signed by the Contractor under Contractor's company seal on all pages.

1.07.00 MANNER OF EXECUTION OF CONTRACT:

- 1.07.01 The Contractor after the receipt and acceptance of the "Letter of Award/Work Order" will send one set of the final contract agreement to The General Manager DAS ,TIC & SG,BESCOM for the scrutiny and approval. The agreement shall be signed on a date and time to be mutually agreed within the specified period of 15 days. The Contractor will present himself for signing with "Performance Guarantee" and "Power of Attorney" and other requisite materials.
- 1.07.02 The agreement will be signed in One original and one xerox. Contractor will be provided with one xerox and the original will be retained by the BESCOM.

1.08.00 ISSUE OF WORK AWARD: Owner/Employee will award the Contract to the successful Bidder/Contractor whose bid has been determined to be substantially responsive and has been determined as the bid with lowest quote, provided further that the Bidder/contractor is determined to be qualified to perform the Contract satisfactorily. Owner /Employee shall be the sole judge in this regard.

- a) Detailed Work award (DWA) will be issued by The General Manager (DAS,TIC & SG),BESCOM.
- b) The conditions indicated in the DWA, Bidding Documents and Technical Specifications and Requirements will be binding upon BESCOM and the successful bidder/contractor.

1.09.00 CONTRACT PERIOD:

The Comprehensive Annual Maintenance Contract for Toshiba make 170HP VRF (HVAC) Units at BICC-I HSR Layout and Toshiba make 148HP VRF (HVAC) Units at BICC-II Rajajinagar, DAS, BESCOM, Bengaluru, becomes effective from the date of acceptance of this contract order for a period of One year (12months) and extendable for further one year on mutual agreement.

1.10.00 CONTRACT PRICE:

The contract price quoted in Indian Rupees by the Contractor in his bid with any addition and deletion as may be agreed before signing the 'contract' for the entire scope of work detailed in bid document shall be treated as contract price.

1.11.00 DEDUCTION FROM THE CONTRACT PRICES:

All costs, damages or expenses, which BESCOM may have paid for which under the 'contract', the Contractor is liable, will be claimed by the BESCOM. All such claims will be deducted from any money due or becoming due under law or otherwise, the clarification/explanation for such deduction made by the BESCOM will be furnished to the Contractor on request. However any deduction will be with the knowledge of the contractor.

1.12.00 LIABILITY FOR ACCIDENT AND DAMAGES:

Under the contract the Contractor shall be totally responsible for all losses or damages to the VRF HVAC units until the VRF HVAC units are taken over.

1.13.00 CONTRACTOR'S DEFAULT:

- 1.13.01 If the Contractor neglects to execute the 'works' with due diligence and expedition or refuse or neglect to comply with reasonable orders given to him in writing by BESCOM in connection with the 'works' or contravene the provision of the contract., the BESCOM may give notice in writing to the Contractor to make good the failure, neglect or contravention complained of Should the Contractor fail to comply with the notice within 15 days from the date of service thereof then in such case, the BESCOM shall be at liberty to employ other workmen and forthwith execute the part of the works as the Contractor has neglected to do or if the BESCOM think it fit shall be lawful to the BESCOM without prejudice to any other right, BESCOM may have under the contract to take 'works' wholly or under part out of the Contractor hands and reconstruct with any other person or persons, complete the works or any part thereof and in that event, BESCOM shall have free use of all 'contractors' equipment that may have been at the time on the 'site' in connection with the works without being responsible to the Contractor for the fair wear and tear thereof and to the exclusion of any right to the Contractor over the same and the owner/ BESCOM shall be entitled to retain and apply any balance which otherwise due on the contract by him to the Contractor, or such part thereof as may be necessary to the payment of the cost of executing the said part of the 'works' or of completing the works as the case may be. If the cost of completing the works or executing the part thereof as aforesaid exceeds the balance due to the Contractor, the Contractor shall pay such excess. Such payment of the excess amount shall be independent of the penalty for delay if the Contractor shall have to

pay if the completion of works is delayed. In addition of such action by the BESCOM as aforesaid shall not relieve the Contractor of his liability to pay penalty for delay in completion of works.

- 1.13.02 The termination of contract under this clause shall not entitle the Contractor to reduce the value of Performance guarantee bond (Security deposit) nor the time thereof .The performance guarantee bond shall be valid for the full value for the contract period.

1.14.00 DEATH, BANKRUPTCY ETC.:

If the Contractor dies or commits any act of bankruptcy or being a BESCOM goes into liquidation except for re-construction purposes or if his or its business is carried on by a receiver, the executors, successors, or other representatives in law of the estate or the contractor or any such receiver, liquidator or any person in whom the contract may become vested, shall forthwith give notice thereof in writing to the BESCOM and shall for one month, during which he shall take all reasonable steps to prevent stoppage of the work, have the option of carrying out the contract subject to his or their providing such guarantees as may be required by BESCOM but not exceeding the value of the work for the time being remaining un-executed. In the event of stoppage of the work, the period of the absence under this clause shall be 14 days only, provided that, should the above option not be exercised, the contract may be terminated by BESCOM by notice in writing to the Contractor. The power and the provisions reserved to BESCOM in the clause on the taking of the work out of the Contractor's hands, shall apply as for may be when the contract is so determined.

1.15.00 NOTICES:

- 1.15.01 Any notice given by one party to the other pursuant to this Contract shall be sent in writing. Written notice shall be deemed to have been duly served if delivered to the individual or to a member of the firm or an officer of the Contractor of the BESCOM for whom it is intended or if delivered at, or sent by mail, telegraph or cable to the last business address of the said Contractor or BESCOM at the address indicated at the beginning of the contract.
- 1.15.02 A notice shall be effective when delivered or on the notices effective date, whichever is later.

1.16.00 NO WAIVER OF RIGHTS:

Neither the inspection by the BESCOM or any of their officials, employees or agents nor any order by the BESCOM for payment of money or any payment for or acceptance of the whole or any part of the works by the BESCOM nor any extension nor any possession taken by the BESCOM shall operate as a waiver of any provision of the contract or of any power herein reserved to the BESCOM or any right to damages herein provided, nor shall any waiver of any breach in the 'contract' be held to be a waiver of any other or subsequent breach.

1.17.00 COMPLETION OF CONTRACT:

Unless otherwise terminated under the provision of any other relevant clause, this contract shall be deemed to have been completed at the expiration of the 'Guarantee period' as provided for under the clause entitled "Guarantee".

1.18.00 ENGINEER'S DECISIONS:

In respect of all matters, including the granting or withholding of certificates, the Engineer shall give in writing a decision thereon and his reasons for such decisions. In all matters of difference of opinion in respect of the contract, the decision of the Engineer shall be final and acceptable to the contractor.

1.19.00 ENFORCEMENT OF TERM:

The failure of either party to enforce at any time any of the provisions of this 'contract' or any rights in respect thereto or to exercise any option herein provided shall in no way be construed to be a waiver of such provisions, rights or options or in any way to affect the validity of the contract. The exercise by either party of any of his rights herein shall not preclude or prejudice either party from exercising the same or any other right if any have hereunder.

1.20.00 CERTIFICATE NOT TO AFFECT RIGHTS OF THE PURCHASER/BESCOM OR CONTRACTOR:

No certificate of the Engineer on account, nor any sum paid on account, by the Purchaser nor any extension of time for the execution of the works by the Contractor under the powers granted by clause "Extension Of Time For Delivery" shall affect or prejudice the rights of the Purchaser against the Contractor or relieve the Contractor of his obligations for the due performance of the Contract to be interpreted as approval of the work done or the materials supplied and no certificate shall create liability for the Purchaser to pay for alterations, amendments, variations or additional work not ordered in writing by the Engineer or discharge the liability of the Contractor for the payment of damage whether duly ascertained or certified or not or of any against the payment of which he is bound to indemnify the Purchaser nor shall any such certificates nor the acceptance by him of any sum paid on account or otherwise affect or prejudice the rights of the Contractor against the Purchaser.

1.21.00 POWER TO VARY OR OMIT WORKS:

- 1.21.01 No alteration, amendments, omission, additions or variation of the works (herein after referred to as variations) under the contract as detailed in the 'contract' documents shall be made unless directed in writing by the BESCOM. The BESCOM shall have full powers subject to the provision herein after contained from time to time during the execution of Contract to make such variation without prejudice to contract. The Contractor shall carryout such variation and be bound by the same condition as though the said variation occurred in the contract documents. If any suggested variation would be in the opinion of the Contractor, if carried out prevent him from fulfilling any of his obligation or guarantees under the contract he shall notify the BESCOM thereof in writing and or the BESCOM shall decide forthwith whether or not the same shall be carried out and if the BESCOM

confirms its instruction, the Contractor's obligation and guarantees shall be modified to such an extent as may be mutually agreed. Any agreed difference in cost occasioned by any such variation shall be added to or deducted from the contract price as the case may be.

1.22.00 DISCIPLINE OF WORKMEN:

The Contractor shall adhere to the disciplinary procedure set by the BESCOM in respect of his employees and the workmen at site/control centers. The BESCOM shall be at liberty to object to the presence of any representative or employee of the Contractor at the site, if in the opinion of the BESCOM, such employee has mis-conducted himself or be incompetent or negligent or otherwise undesirable and then the Contractor shall remove such a person objected to and provide in his place a competent replacement at his own expenses.

1.23.00 EMPLOYMENT OF LABOUR:

- 1.23.01 The Contractor will be expected to employ on the work only his regular skilled employees with experience and qualification of this particular work. No female labour shall be employed after darkness. No person below the age of eighteen years (18) shall be employed.
- 1.23.02 The Contractor shall furnish details of the qualifications and experience of his senior supervisors and engineers assigned to the work, including their experience in supervising erection / replacement/preventive maintenance of equipment /VRFHVAC units of comparable capacity.
- 1.23.03 All traveling expenses including provisions of all necessary transport to and from site/control centers, lodging allowances and other payments to the Contractors employees shall be the sole responsibility of the Contractor.
- 1.23.04 The hours of work on the site shall be decided by the BESCOM and the Contractor shall adhere to it. Control centers working hours will normally be 24*7.
- 1.23.05 The Contractors employees shall wear identification badges while on work at "Control Centers/Site".
- 1.23.06 In case the BESCOM becomes liable to pay any wages or dues to the labour or to any Government agency under any of the provisions of the Minimum Wages Act, Workmen's compensation Act or any other laws and due to act of omission of the Contractor, the BESCOM shall not make such payments.
- 1.23.07 None of the Contractor's superintendents, supervisors, engineers or labour may be withdrawn from the work without due notice being given to the BESCOM. Further, no such withdrawal shall be made if, in the opinion of the BESCOM, it will jeopardize the required pace of progress and/or the successful completion of the work.
- 1.23.08 In connection with the performance of work under this Contract, the Contractor shall agree not to discriminate because of race, religion, colour or national origin. It is also expected that the Contractor in his selection of personnel will give due regard to their ability to cooperate with the BESCOM and the manufacturer's

supervisors relating to the work and co-ordination thereof are to be carefully and courteously considered.

1.24.00 INSURANCE:

1.24.01 In addition to the conditions covered under the title 'Insurance' in 'General Conditions of Contract', the following provisions will apply to the portion of the works to be done beyond the Contractor's own or his sub-Contractor's manufacturing works. Workmen's Compensation Insurance, Comprehensive Automobile Insurance and Comprehensive General Liability Insurance shall be the responsibility of the Contractor.

1.24.02 Workmen's Compensation Insurance:

This insurance shall protect the Contractor against all claims applicable under the Workmen's Compensation Act-1948 (Government of India). This policy shall also cover the Contractor against claims for injury, disability, disease or death of his or his Sub-Contractor's employees, which for any reason are not covered under the Workmen's Compensation Act-1948. The liabilities shall not be less than:

Workmen's Compensation	- As per statutory provisions
Employee's Liability	- As per statutory provisions.

1.24.03 The hazards to be covered will pertain to all the works which and areas where, the Contractor, his Sub-Contractors, his agents and his employees have to perform work pursuant to the Contract.

1.24.04 The above are only illustrative list of insurance covers normally required and it will be the responsibility of the Contractor to maintain all necessary insurance coverage to the extent both in time and amount to take care of all his liabilities either direct or indirect, in pursuance of the Contract.

1.25.00 WORK AND SAFETY REGULATIONS:

1.25.01 The Contractor shall ensure the safety of all the workmen, materials and equipment either belonging to him or to others working at Control Centers(Site).

1.25.02 The Contractor shall be responsible for provision of all safety notices and safety equipment required both by the relevant legislation and the BESCOM, as he may deem necessary.

1.25.03 In the event of BESCOM requiring any variation, such reasonable and prompt notice shall be given to the Contractor to enable him to work his arrangement.

1.25.04 In any case in which the Contractor has received instructions from BESCOM as to the requirement of carrying out the altered or additional substitute work the addition or deletion of the scope of work will be governed by the unit price indicated in the price schedule. The Contractor shall carryout such variation work to the extent that would result in the total cost variation up to 15% of the 'contract price'.

1.26.00 LOCAL CONDITION:

- 1.26.01 It will be imperative on the part of contractor to fully inform himself of all local conditions and factors which may have an effect on the execution of the scope of work covered under contract.
- 1.26.02 It must be understood and agreed that all the factors which may have an effect on the execution of the scope of work, have been properly investigated and considered while submitting the proposals. No claim for financial adjustment to the contract awarded under this specification and document will be permitted by BESCOM. Neither any change in time schedule of the contract nor any financial adjustment arising thereof shall be permitted by the BESCOM, which are based on the lack of such clear information or its effect in the cost of supply and erection to the bidder.

1.27.00 DEFENCE OF SUITS:

- 1.27.01 If any action in court is brought against the BESCOM an officer or agent of the BESCOM for the failure, omission or neglect on the part of the Contractor to perform any acts, matters, covenants of things under the 'contract' or for damage of injury caused by the alleged omission or negligence on the part of the Contractor, his agents, representatives or his sub-vendor/sub contractors or in connection with any claim based on lawful demands of sub vendors / sub-contractors, workmen, suppliers or employees, the contractor shall in all such cases indemnify and keep the BESCOM and / or its representative harmless from all losses, damages, expenses or decrees arising out of such action.
- 1.27.02 The BESCOM shall have full power and right at its discretion to defend or compromise any suit or pay claim or demand brought or made against him as aforesaid whether pending or threatened, as he may consider necessary or desirable and shall be entitled to recover from the Contractor all sums of money including the amount of damages and compensation and all legal costs, charges and expenses in connection with any compromise or award which shall not be called into question by the Contractor and shall be final and binding upon the Contractor.

1.28.00 FORCE MAJEURE

Force majeure is applicable to any cause which is beyond the control of the contractor or the BESCOM as the case may be which they could not or with a reasonable amount of diligence could not have been foreseen and which substantially affect the performance of the contract such as :

- a) Natural phenomena including but not limited to floods, droughts, earthquakes and epidemics.
- b) Acts of any government, domestic or foreign including but not limited to war, declared or undeclared priorities, quarantines, embargoes.
- c) Riot and Civil commotion.
- d) Transportation delay due to above force majeure clause under a, b and c and any other National level strike by the Transporters. Provided either party shall

within 15(fifteen) days of occurrence of such cause, notify the other in writing of such causes

The Contractor or the BESCOM shall not be liable for delays in performing his obligation resulting from any force majeure cause as referred to and/or defined above. The date of completion will be subject to hereinafter provided be extended by a reasonable time without any price escalation of any sort even though such cause may occur after the Contractor's performance of his obligation has been delayed for other causes.

If the performance in whole or part by the Contractor or any obligation under the contract is prevented or delayed by Force Majeure condition for a period exceeding 120 days the BESCOM may at his option, terminate the contract by notice in writing.

1.29.00 REGULATION OF LOCAL AUTHORITIES:

- 1.29.01 The purchaser shall, throughout the continuance of the contract and in respect of all matters arising in the performance thereof serve all notices and obtain consents way leaves, approval and permissions, required in connections with the regulation and bye-laws of the local or other authority which shall be applicable to the works.
- 1.29.02 All works shall be executed in accordance with the Indian Electricity Rules as in force from time to time, wherever they are applicable unless otherwise agreed to in writing by the Engineer.

1.30.00 CONSTRUCTION OF CONTRACT:

The contract shall in all respects be construed and operate as a contract as defined in the Indian Contract Act 1872, and all payments there-under shall be made in rupees unless otherwise specified.

1.31.00 TERMINATION OF CONTRACT:

The BESCOM may terminate the contract after giving seven days notice if any of the following occurs.

- a. The Contractor (being an individual or a firm) commits any act of insolvency.
- b. If the BESCOM certify in writing that in its opinion, the Contractor.
 - i. Has abandoned the contractor or
 - ii. Has failed to commence the 'work' or has without any lawful excuse under these conditions suspend the progress of the 'works' for seven (7) days after receiving from the BESCOM written notice to proceed.
 - iii. Has failed to proceed with the works with due diligence and failed to make such due progress as would enable the works to be completed within the time agreed upon or
 - iv. Has failed to remove material from Control Centers/site or to pull down and replace works within seven (7) days after receiving from the BESCOM written notice that the said material or work were condemned and rejected

by the BESCOM under these conditions or

- v. Has neglected or failed persistently to observe and perform all or any of the act, matters or things by this contract to be observed and performed by the Contractor for seven(7) days after written notice have been given to the Contractor requiring the Contractor to observe and perform the same.
 - vi. Has to detriment of good workmanship or in defiance of the BESCOM's instruction to the contrary, sub contracted part of the contract.
- c. The contractor has failed to perform any other obligation under contract.
- d. The contractor has failed to rectify/make good his failures within 24hours.

Then in any of the said causes, the BESCOM may, notwithstanding any previous waiver after giving seven (7) days notice in writing to the contractor determine the "contract" but without thereby affecting the obligation and liabilities of the contractor; the whole of which shall continue to be in force as fully as if the 'contract' had not been so determined and as if the 'works' subsequently executed has been executed by or on behalf of the contractor.

And further the BESCOM or its agents or its employees may enter upon and take possession of the works and all HVAC units, tools, machinery, power source and other materials .Thereafter as convenient, the BESCOM shall give a notice in writing to the contractor to remove his surplus material and should the contractor fail to do so within a period of fourteen (14) days after issue of such notice, the BESCOM shall dispose them by suitable realized. The BESCOM shall thereafter ascertain and certify in writing under his hand what (if any thing) shall be due or payable to by the contractor, after considering the realized value of the said plant / VRF HVAC units and materials so taken possession of by the BESCOM might have incurred in getting the 'works' so completed and the progress or any other payment

which may due but not paid to the contractor. The amount so certified shall be paid by the BESCOM to the contractor or by the contractor to the BESCOM as the case may be and the certificate of the BESCOM shall be final and conclusive.

On termination of the 'contract' for any cause, the contractor shall see to the orderly suspension and termination of operation with due consideration to the interest of the BESCOM with respect to completion, safeguarding or storing of equipment produced for the performance of the 'contract' and the salvage and resale there of.

1.32.00 NON COMPLETION OF WORK:

Failure to execute any or all portions of the work as per the terms of the work order or non – performance or non-supply of materials in time or supplying materials which does not conform to the specifications and quality prescribed, or the sample not approved or which is found defective or for breach of any of the conditions stipulated will entail enforcement of one or more of the following :

- a. Cancellation of the order in part or in whole.

- b. Imposition of penalty at the rate of ½% per week for the delayed period not exceeding 10% of the value of the order will be levied if maintenance of Toshiba Make VRF HVAC's not carried out within 24 hours from the date of intimation and at the discretion of The General Manager(Ele.), DAS,TIC & SG Section, BESCOM, HSR Layout, Bangalore-560102, Karnataka.
- c. Forfeiture by adjustment of Earnest Money and or Security Deposit in whole or to the extent necessary as considered fit by the Director(Technical),BESCOM, Bengaluru.
- d. Recovery of extra cost, if any, incurred by the BESCOM in securing the material/executing works from other sources by adjustment from money due to the defaulter or otherwise.
- e. Blacklisting the firm at discretion of BESCOM.

1.33.00 SUIT OR PROCEEDINGS:

Any suit or proceedings arising out of this contract shall be instituted in Law Courts at Bengaluru, Karnataka only.

1.34.00 BESCOM's DECISION:

- 1.34.01 In respect of all matters, which are left to the decision of the BESCOM including the granting or withholding of the certificates, the BESCOM shall if required to do so by the Contractor give in writing a decision thereon.
- 1.34.02 If in the opinion of the Contractor a decision made by BESCOM is not in accordance with the meaning and intent of the 'contract' the Contractor may file with the BESCOM within fifteen (15) days after receipt of the decision a written objection to the decision. Failure to file an objection within the allotted time will be considered as acceptance of the Contractor of the BESCOM decision and the decision shall become final and binding. On receipt of any objection from the contractor on the decision of BESCOM, the BESCOM will review and the decision of BESCOM shall be final and binding on the contractor.

1.35.00 SECRECY:

The technical information, drawings, specifications and other related documents forming part of the enquiry or contract are property of the BESCOM and shall not be used for any other purpose, except for execution of the contract. All rights, including rights in the event of grant of a patent and registration of designs are reserved. The technical information, drawings, specification, records and other documents shall not be copied, transcribed, traced or reproduced in any other form or otherwise in whole and / or duplicated, modified, divulged and / or disclosed to a third party without previous consent in writing, BESCOM may give consent in such cases to the extent required for the execution of this contract.

1.36.00 PERMITS AND LICENCE:

All costs incurred in obtaining permits, licenses, approvals necessary for drawings and specifications or for manufacture, import, export, install, testing and operation of the equipment covered by the 'contract', shall be met for by the Contractor.

1.37.00 DIRECTION BESCOM ENGINEERS:

The work shall be performed by deployed workmen under the supervision of supervisor deployed by agency under the direction of Engineers of the BESCOM. The scope of the duties of the BESCOM pursuant to the contract will include but not limited to the following

- a) Interpretation of all the terms and conditions of these documents and specifications.
- b) Review and interpretation of all the Contractor's drawings, Engineering data etc.,
- c) Witness or authorize his representative to witness tests and trails either at the manufacture's works or at 'Site' or at any place where work is performed under the 'Contract'.
- d) Inspect, accept or reject any equipment, material and work under the 'Contract'.
- e) Issue certificate of acceptance and/or progressive payment and final payment certificates.
- f) Review and suggest modifications and improvements in completion schedule from time to time.

Sd/-

General Manager (Ele.,)

DAS,SG & TIC Section, BESCOM